

1 KAREN P. HEWITT  
 2 United States Attorney  
 2 DAVID M. McNEES  
 3 Special Assistant U.S. Attorney  
 3 California State Bar No. 216612  
 4 Federal Office Building  
 4 880 Front Street, Room 6293  
 5 San Diego, California 92101-8893  
 5 Telephone: (619) 557-5979  
 6 E-mail: david.mcnees@usdoj.gov

6  
 7 Attorneys for Plaintiff  
 7 United States of America

FILED

2008 MAY 14 PM 3:00

CLERK US DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY KMH DEPUTY

8  
 9 UNITED STATES DISTRICT COURT  
 9 SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 \$45,000.00 IN U.S. CURRENCY,

14 TWO RABOBANK CASHIER'S  
15 CHECKS AT A TOTAL VALUE  
OF \$31,000.00,

16 ONE WELLS FARGO CHECK  
17 #028203098 IN THE AMOUNT  
OF \$17,000.00,

18 ONE RABOBANK CHECK  
19 #012000742 IN THE AMOUNT  
OF \$8,000.00,

20 ONE RABOBANK CHECK  
21 #012000743 IN THE AMOUNT  
OF \$8,000.00,

22 \$8,000.00 IN U.S. CURRENCY,

23 Defendants.

Civil No. **08 CV 0862 IEG CAB**

EX PARTE MOTION TO APPOINT  
THE UNITED STATES MARSHAL  
AS CUSTODIAN AND TO DEPOSIT  
DEFENDANT CURRENCIES IN SEIZED  
ASSETS DEPOSIT ACCOUNT AND TO  
SUBSTITUTE THE RES

24  
 25 COMES NOW the plaintiff, United States of America, and moves this Court for an exception  
 26 to General Order 273 issued by this Court, that is, for an order appointing the United States Marshal as  
 27 custodian of the defendants upon execution of the warrant of arrest in rem. In support of this motion,  
 28 plaintiff states as follows:

1       1. The United States Marshals office has been staffed with personnel experienced in  
2 providing for the management of properties such as the defendants in this case.

3       2. The United States Marshal has consented to assume responsibility for the protection,  
4 maintenance, and safety of the defendants during the period the same remain in custodia legis.

5       3.       The continued custody of the United States Marshal following execution of the warrant  
6 of arrest in rem is necessary and in the best interests of the plaintiff in this case, given the nature of the  
7 defendants and the expertise within the United States Marshals Service to provide for the management,  
8 protection and preservation of the defendants.

9       4. The United States Marshal has established an account, the Seized Assets Deposit  
10 Account, for the deposit of seized currency until further order of the Court. It is further requested that  
11 the United States Marshal place the defendant currencies in the Seized Assets Deposit Account  
12 administered by the United States Marshal. In the event any of the defendant currency is ordered to be  
13 returned to any claimant, the Court may order the payment of interest thereon. Depositing seized  
14 currency in such an account is proper. See, United States v. \$57,480.05, 722 F.2d 1457 (9th Cir. 1984)  
15 (placing seized cash in bank account was not improper). The account credit of tangible dollars will  
16 constitute an appropriate substitute for the original defendant currency or currencies (res). Id.

17 WHEREFORE, plaintiff respectfully requests that an exception to General Order No. 273 be  
18 granted permitting the appointment of the United States Marshal as custodian of the defendants and that  
19 the defendant currencies be deposited in the aforementioned account and the res be therefore substituted  
20 in this action.

21 || DATED: May 14, 2008

KAREN P. HEWITT  
United States Attorney

David McNease

DAVID M. McNEES  
Special Assistant U.S. Attorney